

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JULIO CESAR OVALLE,

*Plaintiff,*

VS.

UNITED STATES OF AMERICA, DOE  
C.B.P. AGENTS 1-10, DOE I.C.E.  
AGENTS 1-10,

*Defendants.*



SA-20-CV-00676-JKP

**SHOW CAUSE ORDER**

Before the Court is the above-styled cause of action, which was referred to the undersigned on June 8, 2020 [§3] for all non-dispositive pretrial proceedings. The record reflects that Plaintiff requested issuance of summons at the time of filing of its Complaint and a summons was issued on June 4, 2020 addressed to William P. Barr, Attorney General of the United States, at 950 Pennsylvania Avenue, NW, Washington, D.C. 20530.

To effectuate service on the United States, a party must both deliver a copy of the summons and the complaint to the United States for the district where the action is brought and send a copy of the complaint and summons by registered or certified mail to the Attorney General of the United States in Washington, D.C. *See* Fed. R. Civ. P. 4(i)(1). The summons requested by and issued to Plaintiff was addressed to the Attorney General in Washington, D.C. There is no record of any summons being requested or issued as to the U.S. Attorney for the Western District of Texas.

Under Rule 4(m) of the Federal Rules of Civil Procedure, if service of summons and complaint is not made upon a defendant within 90 days after a complaint is filed, after giving notice to plaintiff, the court must dismiss the action without prejudice or direct that service be

effected within a specified time. Fed. R. Civ. P. 4(m). If the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. *Id.* Furthermore, a district court may dismiss an action for failure to prosecute or to comply with any order of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988) (per curiam); Fed. R. Civ. P. 41(b).

Based on a filing date of June 4, 2020, Plaintiff had until September 2, 2020 to serve its Complaint and summons on the United States. If Plaintiff has served its Complaint on the United States, Plaintiff has failed to file any proof of service with the Court. Accordingly, the Court will order Plaintiff to show cause as to why this case should not be dismissed for want of prosecution pursuant to Rule 4(m) and Rule 41(b). If Plaintiff is able to show good cause for the failure to comply with the federal rules, the Court will extend the time for service.

**IT IS THEREFORE ORDERED** that Plaintiff show cause as to why this case should not be dismissed for want of prosecution **on or before October 1, 2020**.

SIGNED this 17th day of September, 2020.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE